

### REMARKS

Reexamination and reconsideration in light of the foregoing amendments and following remarks is respectfully requested.

Claims 23-29 are pending in this application. Claims 1-22 and 30 have been canceled. The Examiner has indicated that claims 23-28 are allowed. However, the Examiner has rejected claim 29 under the first and second paragraphs of 35 U.S.C. § 112.

Applicant notes the Examiner's acknowledgment of Applicants' claim for foreign priority under 35 U.S.C. § 119 and receipt of the certified priority document. The Examiner made suggestions for amending claims 25-27 and 29 for "ease of reading." Applicant has adopted these suggestions and has amended claims 25-27 and 29 in accordance with the Examiner's suggestions. The term "includes" in claim 25 has been changed to --comprises--, the colons (:) in claims 26 and 27 following the biosensor "Type" has been changed to --is--, and claim 29 has been amended to delete "freshness" in line 7 of the claim.

Claim 29 stands rejected under 35 U.S.C. § 112, first paragraph, as not being enabling. According to the Examiner, the limitation "[e]stablishing a standard curve between freshness and the electrical output of a biosensor" is a critical or essential feature of the invention and is not enabled by the disclosure. Applicant respectfully traverses this rejection.

The making of the standard curve is within the skill of the art and would not involve undue experimentation. Any person with skill in the art would know what is meant by a standard curve and how to proceed to establish the curve. The purpose of making the standard curve is to correlate the electrical output of the biosensor to the histamine levels measured in terms of equivalents of histamine. By measuring electrical output of the biosensor with respect to known concentrations of

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histamine, a curve is obtained from which one can predict the concentration of histamine from a measured electrical output from the biosensor. Thus, the standard curve is prepared by measuring the electrical output at different known concentrations of histamine and plotting the results to obtain the standard curve.

The experiment on which Fig. 4 is based on this standard curve ( see page 15, lines 19-37 of the specification). Fish samples were kept at 4° C and 25° C for 10 days. During this 10 day period, the histamine levels were measured each day. As disclosed in the specification, the histamine level is a measure of the total amine concentration in the food sample (page 1, lines 8-17). The level of histamine in the food serves as an indicator of freshness. As disclosed in the specification at page 15, lines 32-34, the maximum accepted level for total amine concentration in terms of histamine equivalents in food products is 100-200 mg/kg and that a concentration of 1000 mg/kg is considered toxic. Thus, to arrive at Fig. 4, the histamine levels were obtained from the electrical output readings of the fish samples. The results at 25° C and 4° C were obtained and plotted for each day to show the results described on page 15, lines 34-37 of the specification. Accordingly, a person having ordinary skill in the art would have understood from reading the specification at page 15, lines 19-37 how the standard curve was obtained and applied in making the graph shown in Fig. 4.

Accordingly, it is respectfully requested that the rejection of claim 29 under 35 U.S.C. § 112, first paragraph, be reconsidered and withdrawn.

Claim 29 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because the metes and bounds of the term “freshness” in line 3 of the claim is unknown. The Examiner appears to be confused as to whether the term “freshness” is related to the term “freshness

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biomarkers” in lines 1 and 2 of the claim or if it is related to “some other freshness-related quality ....” The term “freshness” has been further defined as being --said freshness biomarker--. It is believed that by this amendment the rejection is overcome.

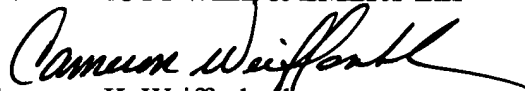
For the foregoing reasons, it is submitted that the claim 29 complies with the requirements of 35 U.S.C. § 112, first and second paragraphs, and is patentable. Accordingly, favorable reconsideration of the claims is requested in light of the preceding amendments and remarks. Allowance of the claims is courteously solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. § 1.17 and in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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